



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

MEMORANDUM ENDORSED

September 8, 2022

Request To File Under Seal

By Email

The Honorable Gregory H. Woods
United States District Judge
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, NY 10007

USDC SDNY
DOCUMENT
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Re: *United States v. Ernest Washington, 20 CR 69 (GHW)*

Dear Judge Woods,

The Government respectfully submits this letter in response to the Order of the Court dated September 5, 2022 and to provide an update concerning the medical care provided to the defendant concerning the condition that he raised initially with the Court at the conclusion of his sentencing on August 25, 2022.

Together with the legal and medical staff of the Bureau of Prisons ("BOP") at the Metropolitan Detention Center ("MDC") where the defendant was previously detained and is now incarcerated pending assignment to a permanent facility, the Government has identified

The medical records obtained from the BOP and enclosed as Exhibit A reflect the diagnosis and treatment of these conditions on these two dates.

In light of this medical care and the condition of the defendant, the Government respectfully submits that the provisional conference scheduled for Monday, September 12, 2022 at 9:00 AM is no longer necessary but is of course prepared to proceed however the Court directs. If the Court wishes to proceed with the conference, then given the medical care provided to date and the condition of the defendant, the Government respectfully requests that the representative of the BOP directed to appear at the conference be excused or in the alternative permitted to participate by telephone. The Government has provided the enclosed medical records to Mr.

Moskowitz, counsel to the defendant, and understands that he will take a position as to the necessity of the conference after speaking with the defendant, which may or may not be possible prior to the date of the conference.

In light of this letter's discussion of the defendant's medical care and condition, the Government requests respectfully that this letter be filed in part under seal with the redactions highlighted in Exhibit B and the entirety of Exhibit A withheld from public disclosure. The Government believes that sealing is appropriate because the privacy interests of the defendant advanced in opposition to public access outweigh substantially the public interest in access. *United States v. Amodeo*, 44 F.3d 141, 146 (2d Cir. 1995) (citing *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 602 (1978)); *see also Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006).

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

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Enclosures (Request To File Under Seal)

cc: Avraham Moskowitz (Counsel to Defendant Ernest Washington) (by email)

Application granted. In light of the information provided in this letter regarding the defendant's continuing care, the September 12, 2022 status conference is adjourned *sine die*. The Clerk of the Court is directed to terminate the motion pending at Dkt. No. 98.

SO ORDERED.

Dated: September 9, 2022
New York, New York

Gregory H. Woods
GREGORY H. WOODS
United States District Judge